IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

AR.No. 3 of 2007()

APPLICANT

M/S.PULIKKAL MEDICAL FOUNDATION, A COMPANY
REGISTERED UNDER SECTION 25 OF THE COMPANIES ACT, 1956
HAVING ITS
REGISTERED OFFICE AT M.G.ROAD,ERNAKULAM AND IS
REPRESENTED IN THIS PROCEEDING BY MR.P.V.ANTONY,
MANAGING DIRECTOR,PULIKKAL MEDICAL FOUNDATION,
M.G.ROAD,ERNAKULAM WHO IS DULY AUTHORIZED AND
EMPOWERED TO REPRESENT THE APPLICANT.

BY ADV. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.V.VINAY MENON
SRI.KIRAN SANKAR

RESPONDENT: OPPOSITE PARTIES

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1. M/S.LINK LAND, A PARTNERSHIP FIRM DEALING IN REAL
ESTATE, HAVING ITS REGISTERED OFFICE AT
32/7A2, SANKAR ESTATE, N.H
BYE PASS,COCHIN-32, REP.BY ITS PARTNERS (1) K.A.MOHANDAS,
S/O.ANIRUDHAN, AGED 44 YEARS, R/AT. KALLALAYIL, KOTTAMAM,
KALADY VILLAGE, ALUVA TALUK NOW R/AT
KALLALAYIL HOUSE,LANE 6,AMBELIPADAM ROAD,VYTTILA.
KOCHI-682019 AND
(2) P.S.NAIR,S/O.DHAMODARAN PILLAI, AGED 52 YEARS,
KALABHAVAN, THADIYOOR PO., TIRUVALLA, NOW R/AT.
LINK PARK CROSS LANE-V, LINK PARK LANE, KALOOR,COCHIN-17.

2. K.A.MOHANDAS,S/O.ANIRUDHAN,AGED 44,
RESIDING AT KALLALAYIL,KOTTAMAM,KALADY VILLAGE,
ALUVA TALUK,NOW RESIDING AT KALLALAYIL HOUSE,
LANE NO.6,AMBELIPADAM ROAD,VYTTILA,KOCHI- 682 019.

3. P.S.NAIR,S/O.DHAMODHARAN PILLAI,AGED 52, KALABHAVAN,THADIYOOR P.O,THIRUVALLA,NOW RESIDING AT LINK PARK CROSS LANE-V,LINK PARK LANE,KALOOR, COCHIN-682 017.

BY ADV. SRI.S.SREEKUMAR

THIS ARBITRATION REQUEST HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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ARBITRATION REQUEST No.3 OF 2007

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DATED THIS THE 11TH JUNE, 2007

O R D E R

In this request under Section 11 of the Arbitration and Conciliation Act, 1996, the applicant-M/s.Pulikkal Medical Foundation prays to the Hon'ble Chief Justice/the designated Judge that an arbitrator be appointed for settlement of the disputes which have arisen between the parties in the context of Annexure-A3 Memorandum of Understanding dated 5.9.2003 and other subsequent agreements between the parties.

2. No counter affidavit is seen filed by the opposite parties who appear through their counsel.

3. Having considered the averments in the Arbitration Request and the various Annexures produced along with the same and having heard the submissions of the learned counsel for the applicant, I do not find any reason as to why the application should not be allowed. Clause 12 of Annexure-A3 Memorandum of Understanding provides that if there be any dispute or difference between the parties on any matter arising out of the Memorandum of Understanding, the same shall be referred to an arbitrator appointed by mutual consent of the

parties and the decision of the arbitrator shall be final and binding on the parties and that the arbitration shall be deemed to be according to the law of land for the time being in force. Annexure-A8 is copy of the notice sent to the opposite parties raising the applicant's claim against them and through Annexure-A9 notice dated 14.11.2006, the applicant invokes the arbitration clause in Annexure-A3 and nominates Mr.Justice K.John Mathew, former Judge of this Court as the applicant's arbitrator for deciding the claim and calls upon the opposite parties to accept such appointment. There was no response by the opposite parties to Annexure-A9, though it was open to them to appoint another arbitrator or to express any dissent in the matter of the arbitrator nominated by the applicant. It is under such circumstances that the applicant has moved this Court under Section 11 of the Act.

4. Mr.Justice K.John Mathew, retired Judge of this Court is known for his efficiency and integrity. According to me, no prejudice whatsoever will be caused to the parties by appointing Mr.Justice K.John Mathew himself as the Arbitrator. Accordingly the Arbitration Request will stand allowed. Mr.Justice K.John Mathew, retired Judge of this Court, Veekshanam Road, Ernakulam is appointed as Arbitrator to

adjudicate and decide on all the disputes which are subject-matter of this Arbitration Request. The Arbitrator will enter on arbitration and pass award at his earliest.

(PIUS C.KURIAKOSE, JUDGE)

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